

Advisory Opinion

IECDB AO 2006-11

July 12, 2006

Jeanine Freeman
Senior Vice President of Legal Affairs
Iowa Medical Society
1001 Grand Avenue
West Des Moines, Iowa 50265-3502

Dear Ms. Freeman:

This opinion is in response to your letter of May 3, 2006, requesting an opinion from the Iowa Ethics and Campaign Disclosure Board pursuant to Iowa Code section 68B.32A(11) and Board rule 351—1.2. We note at the outset that the Board's jurisdiction is limited to the application of Iowa Code chapters 68A and 68B, Iowa Code section 8.7, and rules in Iowa Administrative Code chapter 351. Advice in a Board opinion, if followed, constitutes a defense to a subsequent complaint based on the same facts and circumstances.

FACTUAL STATEMENT:

We understand you request this opinion in your capacity as the Senior Vice President of Legal Affairs for the Iowa Medical Society (IMS). You advise us that IMS sponsors the Iowa Medical Political Action Committee (IMPAC). IMPAC has two accounts, one to support candidates and another for educational purposes. When IMS solicits donations, personal checks or credit cards are put in the candidate account as PAC contributions and corporate checks or credit cards are put in the education fund. No education fund monies are used to make campaign contributions.

You further advise us that IMS is associated with other state associations to form the American Medical Association (AMA). In addition, IMPAC is associated with the American Medical Political Action Committee (AMPAC). AMPAC registers as a federal PAC with the Federal Election Commission. In addition, any IMPAC contributions to federal candidates are included in AMPAC's federal contribution limitations. AMA, which has corporate funds, sends out joint solicitations for the AMA, AMPAC, and IMPAC.

QUESTIONS:

1. Is it permissible for IMPAC to have a separate education fund for corporate donations so long as those donations are not used to make campaign contributions to Iowa committees?
2. Is it permissible to use AMA funds for a joint AMA/IMPAC solicitation?

OPINION:

Iowa Code section 68A.503 prohibits a financial institution, insurance company, or corporation from using any of its resources to make a contribution, directly or indirectly to a committee or to expressly advocate the nomination, election, or defeat of a candidate.¹ The statute does provide an exception to permit the use of such funds to “encourage registration of voters and participation in the political process or to publicize public issues, provided that no part of those contributions are used to expressly advocate the nomination, election, or defeat of any candidate for public office.”²

The Board has consistently held that the language in this exception permits the creation of a separate segregated account that is used for purposes other than for contributions to candidates or for express advocacy communications. Therefore, IMPAC may place otherwise prohibited donations to IMPAC in a separate segregated account (education fund) and use the funds for purposes other than making contributions to candidates or otherwise engaging in express advocacy communications.

Turning to your second question, Iowa Code section 68A.503(3) and Board rule 351—4.52(2) permit corporate sponsors of a political committee (PAC) to pay for the costs of a joint solicitation.³ Based on the information you provided, the Board is of the opinion that the AMA, IMS, AMPAC, and IMPAC are sufficiently connected/affiliated that AMA can be considered a “corporate sponsor” to IMPAC. Therefore, the joint solicitation paid for by the AMA and that is done for the benefit of AMA, AMPAC, and IMPAC is permissible.

BY DIRECTION AND VOTE OF THE BOARD

James Albert, Board Chair
Janet Carl, Vice Chair
Gerald Sullivan
Betsy Roe
John Walsh
Patricia Harper

Submitted by: W. Charles Smithson, Board Legal Counsel

¹This prohibition would extend to the use of such resources for a candidate, candidate’s committee, political party committee, or state PAC that advocates for or against candidates. The prohibition does not apply to ballot issue elections.

²See Iowa Code section 68A.503(4)“a.”

³As of the date of this opinion, the Board is in the process of amending rule 351—4.52. However, the amendments to the rule would not impact the determinations in this opinion.

